



Serial No. 09/313,659  
SEC. 636

B #15  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent application of :

Won-suk YANG et al. :

Box ISSUE FEE

Serial No. 09/313,659

Filed May 18, 1999

LOCATION  
2814

MULTILAYER INTERCONNECTION STRUCTURE OF A SEMICONDUCTOR

---

**PETITION TO WITHDRAW IMPROPER HOLDING  
OF ABANDONMENT**

Honorable Commissioner For Patents  
Washington, D.C. 20231

Sir:

The above-identified application was held abandoned by the Patent Office on the grounds that Applicant failed to timely pay the issue fee in the application, such issue fee being due on or before July 11, 2001. It is respectfully submitted that the abandonment is improper and should be withdrawn.

The facts related to this Petition are as follows:

- (1) On July 11, 2001, the Applicants filed a "PETITION TO (A) WITHDRAW UNAUTHORIZED EXAMINER'S AMENDMENT, AND (B) REOPEN PROSECUTION." A copy of the PETITION is attached as Attachment "A" (pages A-1 through A-9). As background, it is suggested that the

PETITION be read in its entirety. However, attention is particularly directed to the following excerpt from page 4 of the PETITION:

The preemptive issuance of a Notice of Allowance and unauthorized Examiner's amendment was manifestly improper. Accordingly, Applicant's respectfully request that the Examiner's amendment be withdrawn, that the Notice of Allowance be withdrawn, and that prosecution of the application be reopened to properly resolve the issues raised in connection with the rejection under 35 U.S.C. §112, first paragraph. Also, since the finality of the January 25, 2001, Office Action was improper, Applicant requests that the Examiner be directed to issue a new non-final Office Action.

*Applicant has not paid the issue fee in the application since it is believed that the Notice of Allowance will be withdrawn responsive to this Petition. However, the Commissioner is authorized to charge any fees associated with this application, including the issue fee if necessary to maintain the pendency of the application, to deposit account No. 50-0238.*

- (2) Applicants never received a formal decision responsive to the PETITION of July 11, 2001.
- (3) On August 3, 2001, the Examiner issued a SUPPLEMENTAL NOTICE OF ALLOWABILITY, which effectively withdrew the unauthorized Examiner's Amendment referred to in the PETITION.
- (4) On August 21, 2001, the Applicants filed a "SUBMISSION OF FORM "PTOL-85B"", a copy of which is attached as Attachment "B" (pages B-1 through B-5).


While the manifestly improper Examiner's Amendment was not withdrawn until after the issue fee was due, and the Examiner did not extend the courtesy of also withdrawing and then re-dating the Notice of Allowance. In any event, as pointed out in the Applicants' Submission of August 21, 2001, the PETITION dated July 11, 2001, authorized the Patent Office to charge the issue fee to the undersigned's deposit account. Accordingly, Applicants did not fail to timely submit payment of the issue fee, and the subsequent holding of abandonment of the application was improper.

It is therefore requested that the holding of abandonment be withdrawn, and that the application proceed to issuance as soon as possible.

Respectfully submitted,

Won-suk YANG et al.

By:

  
Adam C. Volentine  
Reg. No. 33,289

April 17, 2002

VOLENTINE FRANCOS, PLLC  
12200 Sunrise Valley Drive, Suite 150  
Reston, VA 20191  
(703) 715-0870



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**ATTY DOCKET #: SEC.636**

**DUE DATE:** July 11, 2001

**APPLICANT:** Won-suk YANG et al.

**SERIAL NO.:** 09/313,659

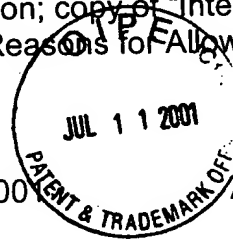
**FILING DATE:** May 18, 1999

**TITLE:** METHOD OF FABRICATING A MOS TRANSISTOR WITH DOUBLE  
SIDEWALL SPACERS IN A PERIPHERAL REGION AND SINGLE  
SIDEWALL SPACERS IN A CELL REGION

**RECEIPT OF THE FOLLOWING PAPERS IS ACKNOWLEDGED:**

Petition To (a) Withdraw Unauthorized Examiner's Amendment, and (b)  
Reopen Prosecution; copy of "Interview Summary"; and copy of "Comments  
on Statement of Reasons for Allowance".

**DATE:** July 11, 2001



**ATTY:** ACV

**[Check No. n/a]**



Serial No. 09/313,659  
SEC.636

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent application of : Group Director  
Won-Suk YANG et al. : Group 2814  
Serial No. 09/313,659 : [Batch No. E95]  
Filed: May 18, 1999 : [Examiner S. Rao]

METHOD FOR FABRICATING A SEMICONDUCTOR DEVICE

**URGENT**

**PETITION TO (a) WITHDRAW UNAUTHORIZED  
EXAMINER'S AMENDMENT, AND (b) REOPEN  
PROSECUTION**

**URGENT**

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JUN 24 2002  
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Honorable Commissioner of Patents,  
Washington, D.C. 20231

Sir:

Without any authorization whatsoever from the Applicant or Applicant's representatives, the Examiner amended Claims 9, 18 and 19 of the above-identified application, presumably for the purpose of removing a rejection under 35 U.S.C. §112, first paragraph, and then passing the application to issue.

Applicant, by the undersigned, hereby petitions the Commissioner to direct the Examiner to (a) withdraw the Examiner's amendment dated July 11, 2001, and (b) re-open prosecution to properly address the rejection under 35 U.S.C. §112, first paragraph.

The facts related to this Petition are as follows:

- (1) On January 25, 2001, the Examiner issued an improper "final" Office Action.

- (2) On March 1, 2001, and March 7, 2001, telephone conferences were held between Mr. Brian Altmiller (Applicant's representative) and the Examiner. Details of these telephone conferences are described in the attached Interview Summary, which was later prepared by Mr. Altmiller and filed on April 19, 2001. In the Interview Summary, Mr. Altmiller states:

In the March 1, 2001, conversation, the Examiner indicated that he would present these arguments to his supervisor. In the March 7, 2001, conversation, the Examiner indicated that his supervisor agreed with these comments relating to the patentability of claims 1-19 over the cited prior art.

Regarding the pending rejection of claims 9 and 19 under 35 U.S.C. § 112, first paragraph, the Examiner proposed an amendment that he stated would overcome this rejection. In particular, he recommended deleting any reference to BF<sub>2</sub> in claims 9 and 19.

The undersigned noted that he would pass this proposed amendment to the Applicants for review. However, no final determination was made regarding any claim amendments, and the undersigned did not agree to any of the proposed amendments.

During these telephone conversations, the Examiner noted that he did not wish to withdraw the Office Action of January 25, 2001, nor did he wish to work through these matters by Examiner's Amendment. Rather, he requested that the undersigned file a response to the pending Office Action and include a reference to these telephone interviews, and the arguments made during these interviews. In particular, the Examiner specifically requested that the response address the rejection under 35 U.S.C. § 112, first paragraph, as discussed in these interviews. (Emphasis added.)

- (3) On March 7, 2001, although not of record in the Patent Office files, Mr. Altmiller then wrote to the Applicant to obtain their opinion as to the rejection under 35 U.S.C. §112, first paragraph, and in particular to ask

whether the claims may be amended as suggested by the Examiner.

- (4) On March 15, 2001, although not of record in the Patent Office files, the Applicant replied to Mr. Altmiller's letter by rejecting the Examiner's proposed amendment and by providing detailed argument against the rejection under 35 U.S.C. §112, first paragraph. Mr. Altmiller then intended to file a response by the due date of April 25, 2001.
- (5) Surprisingly, on April 11, 2001, the Examiner issued the aforementioned Notice of Allowance, as well as the Examiner's amendment which was never authorized by the Applicant or the Applicant's representatives. The Examiner also issued an Interview Summary which makes no mention of the Examiner's proposal and/or the rejection under 35 U.S.C. §112, second paragraph.
- (6) On April 19, 2001, Mr. Altmiller prepared and filed the aforementioned Interview Summary, as well as Comments On Statement Of Reasons For Allowance, copies of which are attached. In the later document, Mr. Altmiller states:

However, contrary to the Examiner's assertion, the undersigned ***did not*** authorize the Examiner to make any amendments to any pending claims in this application.  
(*Emphasis in original.*)

The unauthorized amendments of the Examiner were not of a grammatical or typographical nature, and instead were directed to obviating a rejection under 35 U.S.C. §112, first paragraph, which Applicants were preparing to traverse in a response to the

improper final Office Action of January 25, 2001.

The preemptive issuance of a Notice of Allowance and unauthorized Examiner's amendment was manifestly improper. Accordingly, Applicant's respectfully request that the Examiner's amendment be withdrawn, that the Notice of Allowance be withdrawn, and that prosecution of the application be reopened to properly resolve the issues raised in connection with the rejection under 35 U.S.C. §112, first paragraph. Also, since the finality of the January 25, 2001, Office Action was improper, Applicant requests that the Examiner be directed to issue a new non-final Office Action.

*Applicant has not paid the issue fee in the application since it is believed that the Notice of Allowance will be withdrawn responsive to this Petition. However, the Commissioner is authorized to charge any fees associated with this application, including the issue fee if necessary to maintain the pendency of the application, to deposit account No. 50-0238.*

Respectfully submitted,

WON-SUK YANG ET AL.



Adam C. Volentine  
Registration No. 33,289

July 11, 2001

JONES VOLENTINE, PLLC  
12200 Sunrise Valley Drive, Suite 150  
Reston, Virginia 20191  
Tel. (703) 715-0870





SEC.636  
09/313,659

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Won-suk YANG et al.

Group Art Unit: 2814

Application Serial No.: 09/313,659

Examiner: S. Rao

Filed: May 18, 1999

Title: METHOD FOR FABRICATING A SEMICONDUCTOR DEVICE

Assistant Commissioner of Patents  
Washington, D.C. 20231

**COPY**

**INTERVIEW SUMMARY**

Sir:

On March 1, 2001, and March 7, 2001, the undersigned spoke with Examiner Stephen Rao by telephone regarding the final Office Action dated January 25, 2001, issued in this case. A summary of what was discussed is given below.

During these interviews, the undersigned discussed with the Examiner the finality of the January 25<sup>th</sup> Office Action, the rejection of claims 1-19 under 35 U.S.C. § 103(a), and the rejections of claims 9 and 19 under 35 U.S.C. § 112, first paragraph.

Regarding the finality of the Office Action dated January 25, 2001, the undersigned noted that a new rejection was applied to claim 15 in this Office Action, which had not been amended in a previous response. Therefore the finality of this Office Action was improper and should be withdrawn.

The Examiner considered these arguments, but would not comment on them. Rather, he requested that the undersigned include them in a written response to the Office Action, and that the Examiner would consider them fully at that time.

Regarding the pending rejection of claims 1-19 under 35 U.S.C. § 103(a), the undersigned repeated the arguments from the response filed November 15, 2000, offering additional comments to assist the Examiner in understanding them.

In the March 1, 2001, conversation, the Examiner indicated that he would present these arguments to his supervisor. In the March 7, 2001, conversation, the Examiner indicated that his supervisor agreed with these comments relating to the patentability of claims 1-19 over the cited prior art.

Regarding the pending rejection of claims 9 and 19 under 35 U.S.C. § 112, first paragraph, the Examiner proposed an amendment that he stated would overcome this rejection. In particular, he recommended deleting any reference to  $\text{BF}_2$  in claims 9 and 19.

The undersigned noted that he would pass this proposed amendment to the Applicants for review. However, no final determination was made regarding any claim amendments, and the undersigned did not agree to any of the proposed amendments.

During these telephone conversations, the Examiner noted that he did not wish to withdraw the Office Action of January 25, 2001, nor did he wish to work through these matters by Examiner's Amendment. Rather, he requested that the undersigned file a response to the pending Office Action and include a reference to these telephone

interviews, and the arguments made during these interviews. In particular, the Examiner specifically requested that the response address the rejection under 35 U.S.C. § 112, first paragraph, as discussed in these interviews.

On April 11, 2001, the Examiner issued a Notice of Allowance with a form PTO-413 Interview Summary. In this summary of the interviews referenced above, the Examiner correctly noted that the patentability of claims 1-19 over the prior art was discussed.

The Examiner made no mention in this Interview Summary regarding the substance of the interviews as they related to the finality of the Office Action or the rejection of claims 9 and 19 under 35 U.S.C. § 112, first paragraph. The above comments provide a description of these aspects of the interviews.

Applicants respectfully request that the Examiner make these comments of record in this case.

Respectfully Submitted,  
Jones Volentine, L.L.C



Brian C. Altmiller  
Reg. No. 37,271

Date: April 19, 2001

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12200 Sunrise Valley Drive, Suite 150  
Reston, Virginia 20191  
(703) 715-0870

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Won-suk YANG et al.

Application Serial No.: 09/313,659

Filed: May 18, 1999

Title: METHOD FOR FABRICATING A SEMICONDUCTOR DEVICE

Assistant Commissioner of Patents  
Washington, D.C. 20231

APR 17 2002

Group Art Unit: 2814

Examiner: S. Rao

**COPY**

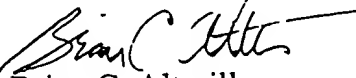
COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Sir:

In the Notice of Allowability dated April 11, 2001, the Examiner indicated that the undersigned authorized amendments to claims 9, 18, and 19. However, contrary to the Examiner's assertion, the undersigned did not authorize the Examiner to make any amendments to any pending claims in this application. A discussion of the substance of the telephone interviews made by the undersigned with the Examiner are set forth in the Interview Summary being filed along with this paper.

Applicants respectfully request that the Examiner make these comments of record in this case.

Respectfully Submitted,  
Jones Volentine, L.L.C.

  
Brian C. Altmiller  
Reg. No. 37,271

Date: April 19, 2001

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**ATTY DOCKET #: SEC.636**

**DUE DATE:**

**APPLICANT:** Won-suk YANG et al.

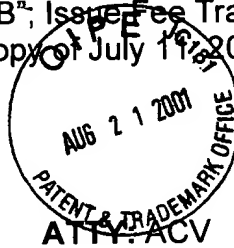
**SERIAL NO.:** 09/313,659

**FILING DATE:** May 18, 1999

**TITLE:** METHOD FOR FABRICATING A SEMICONDUCTOR DEVICE

**RECEIPT OF THE FOLLOWING PAPERS IS ACKNOWLEDGED:**

Submission of Form "PTOL-85B", Issue Fee Transmittal; copy of page 4 of Petition dated July 11, 2001; copy of July 11, 2001 postcard.



**DATE:** August 21, 2001

**ATTY:** ACV

**[Check No. N/A]**

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B-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent application of

Won-Suk YANG et al.

Serial No. 09/313,659

Filed: May 18, 1999

METHOD FOR FABRICATING A SEMICONDUCTOR DEVICE



BOX IF

Batch No. E95

[Group 2814]

[Examiner S. Rao]

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SUBMISSION OF FORM "PTOL-85B"

Honorable Commissioner of Patents,  
Washington, D.C. 20231

Sir:


Applicants acknowledge receipt of the Supplemental Notice Of Allowability dated August 3, 2001, in which the Examiner amended Claims 9, 18 and 19 to change "BF<sub>3</sub>" to -- BF<sub>2</sub> -- .

In a Petition dated July 11, 2001, Applicants previously authorized the Patent Office to charge the issue fee to the undersigned's deposit account. A copy of the relevant page 4 of that Petition, as well as a returned postcard receipt, are enclosed.

Also enclosed is the completed form PTOL-85B for the application.

Respectfully submitted,

WON-SUK YANG ET AL.



Adam C. Volentine  
Registration No. 33,289

August 21, 2001

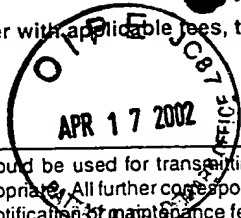
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B.2

# PT B—ISSUE FEE TRANSMITTAL

Complete and mail this form, together with applicable fees, to:

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Assistant Commissioner for Patents  
Washington, D.C. 20231



**FILING INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

**CURRENT CORRESPONDENCE ADDRESS** (Note: Legibly mark-up with any corrections or use Block 1)

JONES AND VOLENTINE LLP  
SUITE 150  
12200 SUNRISE VALLEY DRIVE  
RESTON VA 20191

MM91/0411

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

## Certificate of Mailing

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/313,659	05/18/99	019	RAO, S	2814 04/11/

First Named Applicant: YANG, 35 USC 154(b) term ext. = 0 Days.

**TITLE OF INVENTION** METHOD OF FABRICATING A MOS TRANSISTOR WITH DOUBLE SIDEWALL SPACERS IN A PERIPHERAL REGION AND SINGLE SIDEWALL SPACERS IN A CELL REGION

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
0 SEC. 636	438-309.000	E95	UTILITY	NO	\$1240.00	07/11/

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Jones Volentine, PLLC

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)  
**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

Samsung Electronics Co., Ltd.

(B) RESIDENCE: (CITY & STATE OR COUNTRY)

Suwon-city, Kyungki-do, Republic of Korea

Please check the appropriate assignee category indicated below (will not be printed on the patent)

☐ individual ☒ Corporation or other private group entity ☐ government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):

Issue Fee

Advance Order - # of Copies

4b. The following fees or deficiency in these fees should be charged to:

DEPOSIT ACCOUNT NUMBER  
(ENCLOSE AN EXTRA COPY OF THIS FORM)

Issue Fee

Advance Order - # of Copies

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature) Adam C. Volentine, 33289

(Date)

8-21-01

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

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Serial No. 09/313,659  
SEC.636

improper final Office Action of January 25, 2001.

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WON-SUK YANG ET AL.

Adam C. Volentine  
Registration No. 33,289

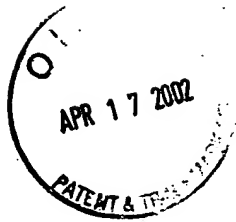
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ATTY DOCKET #: SEC.636 DUE DATE: July 11, 2001

APPLICANT: Won-suk YANG et al.

SERIAL NO.: 09/313,659 FILING DATE: May 18, 1999

TITLE: METHOD OF FABRICATING A MOS TRANSISTOR WITH DOUBLE  
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JUL 11 2001



ATTY: ACV

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DATE: July 11, 2001  
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